

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WILLIAM H. CRAWLEY,)	CASE NO. 1:15CV0081
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>MEMORANDUM OPINION</u>
)	<u>AND ORDER</u>
)	
MARGARET BRADSHAW,)	
Warden,)	
)	
Respondent,)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kenneth S. McHargh. Petitioner filed this action requesting a writ of habeas corpus pursuant to 28 U.S.C. § 2254 arising out of his 2013 conviction for aggravated arson. The Report and Recommendation (ECF #8), issued on March 22, 2016, is hereby ADOPTED by this Court and Petitioner's Petition for Writ of Habeas Corpus is DENIED. Petitioner has not filed any objections.

Magistrate Judge McHargh recommended Petitioner's request be denied on procedural grounds. A habeas petitioner cannot obtain relief unless the petitioner has completely exhausted his available state remedies (ECF #8 at 7). The exhaustion requirement is met when the highest state court has been given a full and fair opportunity to rule on the petitioner's claims and to resolve any constitutional issues. Before the Supreme Court of Ohio, Petitioner only raised his claims that the

trial court failed to properly merge counts of the indictment. Because Petitioner failed to raise his constitutional claim in the state high court, he therefore did not properly exhaust his available state remedies. Further, Petitioner cannot return to state court to exhaust his claims because the Ohio Supreme Court has ruled that arguments not raised in an initial appeal will be barred from consideration on appeal following remand under the doctrine of res judicata (ECF #8 at 8). Therefore, Petitioner's claim is procedurally defaulted.

The Court has reviewed the Report and Recommendation *de novo*. See *Massey v. City of Ferndale*, 7 F.3d 506 (1993). The Court finds Magistrate Judge McHargh's Report and Recommendation to be well-written, well-supported, and correct. Therefore, the Report and Recommendation (ECF #8) is ADOPTED in its entirety and Petitioner's Petition for Writ of Habeas Corpus is DENIED.

Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: _____

